Office-Supreme Court, U.S.
FILED
JUL 22 1981
ALEXANDER L. STEVAS,
CLERK

No. 80-2150

Supreme Court of the United States

October Term, 1980

DONALD FINNEGAN, *et al.*,
Petitioners,

vs.

HAROLD D. LEU, *et al.*,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

JACK GALLON
JEFFREY JULIUS
Counsel of Record
GALLON, KALNIZ & IORIO CO., L.P.A.
3161 N. Republic Boulevard
Toledo, Ohio 43615
(419) 535-1976
Counsel for Respondents

THE GATES LEGAL PUBLISHING CO., CLEVELAND, OHIO—TEL. (216) 621-5647

QUESTION PRESENTED

Was Respondent Leu's removal of appointed employees of the Respondent Union, who serve at the will of the president of the Respondent Union, lawful under the Labor-Management Reporting and Disclosure Act of 1959 (hereinafter referred to as the "LMRDA"), 29 U.S.C. §401 *et seq.*?

LIST OF ALL PARTIES

The Respondents are: Harold D. Leu (hereinafter referred to as "Leu") and Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union 20 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (hereinafter referred to as the "Union").

TABLE OF CONTENTS

Questions Presented I
List of All Parties I
Table of Authorities III
Opinion Below 1
Jurisdiction 2
Statutory Provisions Involved 2
Statement of the Case 2
Reasons Why the Writ Should Be Denied 5
Conclusion 13

Appendix:

29 United States Code:

Section 401 ..... A1
Section 411 ..... A2
Section 481 ..... A3
Section 529 ..... A3

TABLE OF AUTHORITIES

Cases

Bradford v. Textile Workers of America, AFL-CIO, 563 F.2d 1138 (4th Cir. 1977) 7, 8
Cooke v. Orange Belt District Council of Painters No. 48, 529 F.2d 815 (9th Cir. 1976) 7, 8
Durham v. U.S., 401 U.S. 481 (1971) 5
Fay v. Noia, 372 U.S. 391 (1963) 5
Gabauer v. Woodcock, 520 F.2d 1084 (8th Cir. 1975) 7, 8

Grand Lodge of International Association of Machinists v. King, 335 F.2d 340 (9th Cir.), *cert. denied*, 379 U.S. 920 (1964) 7, 8

Martire v. Laborers' Local Union 1058, 410 F.2d 32 (3rd Cir.), *cert. denied*, 396 U.S. 903 (1969) 6, 8, 9

Newman v. Local 1101, CWA, 570 F.2d 439 (2nd Cir. 1978) 6, 9

Sheridan v. United Brotherhood of Carpenters, 306 F. 2d 152 (3rd Cir. 1962) 6, 9

Wambles v. International Brotherhood of Teamsters, etc., 488 F.2d 888 (5th Cir. 1974) 6, 9, 10

Wood v. Dennis, 489 F.2d 849 (7th Cir. 1972), *cert. denied*, 415 U.S. 960 (1973) 7, 8, 10

Statutes

Labor Management Reporting and Disclosure Act of 1959, Sec. 2, 29 U.S.C. Sec. 401 ..... 2, 4, 6, 8, 9, 12

Labor Management Reporting and Disclosure Act of 1959, Sec. 101(a)(1), 29 U.S.C. Sec. 411(a)(1) 2, 4, 6, 9

Labor Management Reporting and Disclosure Act of 1959, Sec. 101(a)(2), 29 U.S.C. Sec. 411(a)(2) 2, 4, 6, 9

Labor Management Reporting and Disclosure Act of 1959, Sec. 102, 29 U.S.C. Sec. 412 2

Labor Management Reporting and Disclosure Act of 1959, Sec. 401(e), 29 U.S.C. Sec. 481 ..... 2, 8

Labor Management Reporting and Disclosure Act of 1959, Sec. 609, 29 U.S.C. Sec. 529 ..... 2, 4, 6, 9, 11

Rule

Supreme Court of the United States, Rule 17.1 5

No. 80-2150

Supreme Court of the United States

October Term, 1980

DONALD FINNEGAN, *et al.*,
Petitioners,

vs.

HAROLD D. LEU, *et al.*,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

OPINION BELOW

The opinion of the Court of Appeals, not yet reported, appears in the Appendix to the Petition for Writ of Certiorari at page A1. The opinion of the United States Dis-the Court for the Northern District of Ohio, Western Division appears in the Appendix to the Petition for Writ of Certiorari at page A4.

JURISDICTION

The Respondents agree with the jurisdictional statement contained in the Petitioner's Petition for Writ of Certiorari.

STATUTORY PROVISIONS INVOLVED

This case involves §2, §101(a)(1), §101(a)(2), §102, §401(e) and §609 of the LMRDA of 1959, 29 U.S.C. §401, 29 U.S.C. §411(a)(1), 29 U.S.C. §411(a)(2), 29 U.S.C. §412, 29 U.S.C. §481(e) and 29 U.S.C. §529 (1976) (Appendix, p. A1).

STATEMENT OF THE CASE

The instant case arises out of Respondent Leu's removal of fifteen (15) appointed employees of Respondent Union, who served at the will of the president of Respondent Union, pursuant to the by-laws of Respondent Union. *See,* March 23, 1981 Order of the United States Court of Appeals for the Sixth Circuit and March 30, 1979 Opinion and Order of the United States District Court for the Northern District of Ohio, Western Division. The Respondent Union is an unincorporated association more commonly known as a labor organization which represents approximately 14,000 members in the northwestern Ohio area. In December of 1977, an election for the presidency and other officers of Respondent Union pitted the slate of Respondent Harold D. Leu against the slate of incumbent officers headed by Omar L. Brown. *See,* Tr. at 63[1] There

1. "Tr." refers to the pages in the Appendix in the Court of Appeals.

is no dispute among the parties to this action that the election was hotly contested; and, that campaigning was vigorous for both slates. *See*, Tr. at 63. Respondent Leu was declared the victor in that election.

During the 1977 campaign that resulted in Respondent Leu's election, Respondent Leu campaigned vigorously upon the issue of representation of the rank-and-file membership of the Respondent Union. In fact, the primary issue in Respondent Leu's campaign and his primary campaign promise to the membership of the Respondent Union was that if elected, he would improve the service to and representation of the rank-and-file membership of the Respondent Union over that of the previous Brown administration. *See*, Tr. at 121 and 125. Such representation and service to the membership is the primary responsibility of appointed employees known as "Business Agents". The business agents for Respondent Union serve at the will of the president, are responsible to the president of Respondent Union, and, are responsible for carrying out those tasks and policies dictated by the president of the Respondent Union. *See*, Tr. at 74 through 77 and 124.

Prior to taking office as president of the Respondent Union on December 30, 1977, Respondent Leu determined that in order to carry out his campaign promise of improving the representation and service to the membership of the Respondent Union, it would be necessary to replace many of the business agents employed under the previous Brown administration. *See*, Tr. at 124 through 125. Respondent Leu based this determination upon his observations of Petitioners in carrying out their duties under the Brown administration. *See*, Tr. at 123 through 124 and 138. As a result of this determination, on January 3, 1978, Respondent Leu informed fifteen (15) appointed employees, including Petitioners, that he was terminating

their employment with the Respondent Union. *See,* Tr. at 67. At that time, Respondent Leu informed each of the Petitioners that he was terminating their employment as employees with the Respondent Union based upon his belief that they were unable to fulfill his campaign commitments of better service to and representation of the membership by virtue of their performance under and loyalty to the policies of Omar Brown. *See,* Tr. at 125 and 126. Respondent Leu further informed the Petitioners that he did not believe, based upon their past performance under the Brown administration, that they could adequately represent and service the membership of the Respondent Union in the manner in which Respondent Leu believed they should be represented. *See,* Tr. at 117, 126 and 138. Although Respondent Leu discharged the Petitioners in this action, he did retain as employee-business agents two (2) individuals who had served in that capacity under the Brown administration and who had supported Brown in his campaign. *See,* Tr. at 82 through 84 and 92. Respondent Leu did not at this time, or at any other time, expel or attempt to expel Petitioners from membership in the Respondent Union or interfere in any way with the exercise of their rights as Union members. *See,* Tr. at 105 and 114.

Shortly after their removal as employees of Respondent Union, Petitioners filed a complaint in the United States District Court for the Northern District of Ohio, Western Division alleging that they had been discharged in violation of their rights under §401 and §609 of the LMRDA of 1959, 29 U.S.C. §411 and §529. *See,* Tr. at 1. The Petitioners sought and were denied a preliminary injunction, following a hearing on the Petitioner's request for the same. *See,* Tr. at 6 through 165. Following the denial of Petitioners' request for a preliminary injunction, depositions were taken. Based upon the evidence adduced

at the hearing on Petitioners' request for a preliminary injunction, depositions, affidavits and briefs of counsel, the United States District Court for the Northern District of Ohio, Western Division concluded that Respondent Leu's removal of the appointed employees of the Respondent Union was lawful under the LMRDA; and, granted Respondents summary judgment on March 30, 1979. *See,* Petition for Writ of Certiorari at A5.

On March 23, 1981, the United States Court of Appeals for the Sixth Circuit issued an order finding:

> Accordingly, the judgment is affirmed for the reasons set forth in the well-written opinion of Judge Young filed on March 30, 1979.

See, Petition for Writ of Certiorari at A3. Thereafter, Petitioners filed a Petition for Writ of Certiorari to this Honorable Court on June 17, 1981.

REASONS WHY THE WRIT SHOULD BE DENIED

Rule 17.1 of the Revised Rules of the Supreme Court of the United States provides in relevant part:

> A review of writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor.

See also, Durham v. U.S., 401 U.S. 481 (1971); and *Fay v. Noia,* 372 U.S. 391 (1963). The following brief discussion will demonstrate that there are no "special and important reasons" for the granting of a writ of certiorari in the instant case; and therefore, the Petition for Writ of Certiorari must be denied.

A. The Allegedly Conflicting Decisions Cited by Petitioners Are Distinguishable on Their Facts

While the Petitioners have failed to clearly identify the consideration(s) that allegedly warrant review on certiorari in the instant case, it would appear that Petitioners are urging that the Marcn 23, 1981 Order issued by the United States Court of Appeals for the Sixth Judicial District is in direct conflict with decisions of the United States Court of Appeals for the Fourth, Seventh, Eighth and Ninth Judicial Districts on the same matter of federal law. An examination of the Circuit Court decisions cited by Petitioners, however, demonstrate that they are factually distinguishable from the instant case; and therefore, Petitioners' Writ of Certiorari must be denied.

The gravamen of Petitioners' complaint was and is that they were removed as *appointed* employees of Respondent Union allegedly for their support of a losing candidate in an election of officers for the Respondent Union and this removal from employee status violated §401(a)(1), §401(a)(2) and §609 of the LMRDA of 1959, 29 U.S.C. §411(a)(1), 29 U.S.C. §411(a)(2) and 29 U.S.C. §529. This contention was rejected by both the United States District Court for the Northern District of Ohio, Western Division and the United States Court of Appeals for the Sixth Circuit on the basis of *Wambles v. International Brotherhood of Teamsters, etc.*, 488 F.2d 888 (5th Cir. 1974); *Newman v. Local 1101, CWA*, 570 F.2d 439 (2nd Cir. 1978); *Martire v. Laborers' Local Union 1058*, 410 F.2d 32 (3rd Cir.), *cert. denied*, 396 U.S. 903 (1969); and, *Sheridan v. United Brotherhood of Carpenters*, 306 F.2d 152 (3rd Cir. 1962) as well as the following findings:

(1) Termination as a business agent did not mean that the plaintiffs were otherwise ineligible to

continue union membership. (Petition for Writ of Certiorari at A7);

(2) By terminating the plaintiffs here, they have not lost any of their rights as union members. They remain free to work in the industry and to seek union office. (Petition for Writ of Certiorari at A8); and

(3) The evidence does not indicate that the firings were an attempt to stifle dissent in the union. (Petition for Writ of Certiorari at A8).

Thus, the District Court and Court of Appeals concluded that since the LMRDA only protects "membership rights" and the Petitioners were asserting employment rights, that the removal of these appointed employees was lawful.

The Petitioners are currently taking the position that the District Court and Sixth Circuit decisions are directly in conflict with the decisions in *Grand Lodge of the International Assn. of Machinists v. King*, 335 F.2d 340 (9th Cir.), *cert. denied*, 379 U.S. 920 (1964); *Wood v. Dennis*, 489 F.2d 849 (7th Cir. 1972), *cert. denied*, 415 U.S. 960 (1973); *Gabauer v. Woodcock*, 520 F.2d 1084 (8th Cir. 1975); *Cooke v. Orange Belt District Council of Painters No. 48*, 529 F.2d 815 (9th Cir. 1976); and, *Bradford v. Textile Workers of America*, 563 F.2d 1138 (4th Cir. 1977). An examination of each of these cases, except *Grand Lodge*, demonstrates an important factual distinction between those cases and the case at bar. In each case cited by Petitioners,[2] the

2. While the *Grand Lodge, supra*, case involved an appointed Grand Lodge representative, the holding in *Grand Lodge, supra* was premised upon a finding that: "There are no decisions to the contrary. We are satisfied that this is the proper construction of the statute." 335 F.2d at 347. The Ninth Circuit seems to have recognized the distinction between elected officers and appointed

(Continued on following page)

person being removed was an *elected* officer of the union. *See, Wood v. Dennis,* 489 F.2d 849, 851 (7th Cir. 1972) (duly-elected president of the T-C Division); *Gabauer v. Woodcock,* 520 F.2d 1084, 1087 (8th Cir. 1975) (elected Shop Committee and elected Zone Committeeman); *Cooke v. Orange Belt District Council of Painters No. 48,* 529 F.2d 815, 818 (9th Cir. 1976) (elected business representative); and, *Bradford v. Textile Workers of America, Local 1093, AFL-CIO,* 563 F.2d 1138, 1139 (4th Cir. 1977) (elected union committeeman). It is clear that the right to hold an elective office is clearly a "membership right" as opposed to an "employment right". *See,* LMRDA §401(c), 29 U.S.C. §481(e) (1976). Thus, the cases cited by Petitioners merely provide a cause of action for a member of a union who is removed from an elective office. Since the Petitioners did not hold an elective office, the instant case is clearly distinguishable from the cases cited by Petitioners on its facts. Thus, the instant case does not present this Court with a direct conflict with the holdings of the Fourth, Seventh, Eighth and Ninth Circuits. Therefore, there are no "special and important reasons" for a review of this case, and, the Petition for Writ of Certiorari must be denied.

Footnote continued—

employees of a union in *Cooke v. Orange Belt District Council of Painters,* 529 F.2d 815, 821, wherein it was recognized: "Moreover, we are disinclined to permit the waiver under the circumstances of this case to excuse a failure to comply with Rule 52(a) Fed. R. Civ. P. Our reluctance is based in part on the view that union officers, who are not entitled to the protections of section 101(a)(5) when the 'discipline' does not affect their 'status quo union member', *Martire v. Laborers Local 1058,* 410 F.2d 32, 35 (3rd Cir.), *cert. denied,* 396 U.S. 903, 90 S. Ct. 216, 24 L. Ed. 2d 179 (1969), should be afforded the protection that the necessity to prepare findings of fact and conclusions of law provides." Thus, the Ninth Circuit's application of the *King* holding to non-elected union officials is in doubt.

B. The Petitioners' Argument Is Without Merit, Whether or Not There Is a Split in the Circuits

Assuming arguendo there is a split in the circuits on the question of whether a union's removal of an appointed employee for supporting an opposition candidate violates the LMRDA, the Courts below have found and the Respondents agree that the more well reasoned authorities hold that the provisions of the LMRDA apply only to the rights of union members acting in their capacity as union members and do not extend job protection to appointed employees of a union. *See, Wambles v. International Brotherhood of Teamsters,* 488 F.2d 888 (5th Cir. 1974); *Newman v. Local 1101, CWA,* 570 F.2d 439 (2nd Cir. 1978); *Martire v. Laborers' Local Union 1058,* 410 F.2d 32 (3rd Cir.), *cert. denied,* 396 U.S. 903 (1969); and, *Sheridan v. United Brotherhood of Carpenters,* 306 F.2d 152 (3rd Cir. 1962).

These cases uniformly hold that while officers and employees of a union possess the full panoply of rights enumerated in the LMRDA in their capacities as members of the union, these rights do not apply to union officials and employees in their capacities as union employees. The Courts in these cases base this conclusion upon two separate and distinct factors. The Courts first base this conclusion upon the language contained in the LMRDA itself. The Act refers exclusively to the rights and remedies of union members, and nowhere states that it is applicable to appointed union officials. *See,* 29 U.S.C. §401, 29 U.S.C. §411, and, 29 U.S.C. §529. Thus, on its face, the language of the LMRDA indicates that it is designed to protect only union membership rights.

The Courts in the cases cited above also have based their determination that the protections and remedies of

the LMRDA do not apply to union officials and employees in their capacities as officials and employees of the union upon what can only be termed a realistic and reasoned analysis of the untenable situation in which unions would be placed should they be prohibited by the LMRDA from discharging union officials whose political and policy loyalties and views are at odds with those of the union administration. For example, the United States Court of Appeals for the Fifth Circuit in a case on all fours with the instant one recognized that:

> As a practical matter, the Union's President should be able to work with those who will cooperate with his program and carry out his directives. It can be argued that an appointed office holder under the President who has opposed him in the election does not guarantee obstructionist policies . . . and that before the appointed official could be discharged for cause he would have to show an actual conflict of interest. This is a rather charitable view of persons recently involved in political conflicts. A more realistic view would be that in a great majority of cases the friction generated in the election campaign would infect and seriously impede the successful candidate's implementation of his program approved by the membership electing him. 488 F.2d at 88.

The cases cited above, then, analyze the rights of union officials and employees under the LMRDA in light of the realities of union politics and administration rather than in a hypothetical vacuum as Petitioners seem to contend those rights should be analyzed.[3] To rule that Re-

---

3. This specific fact has been recognized by Judge, and now Justice Stevens in *Wood v. Dennis*, *supra* at 858, wherein it provides: "Second, as I understand the King rationale—at least as it applies to Unions which have not adopted such speech-inhibiting

(Continued on following page)

spondent Union was required to continue the employment of Petitioners as employees under the new Union administration until such time as they gave additional cause for discharge or until such time as they retire, would mean that Petitioners could remain on the Respondent Union payroll indefinitely while undermining the Respondent Union's administration solely to make it ineffective. Respondents would submit that this realistic analysis of the situation existing within the Respondent Union must be given great weight in determining the application of the LMRDA to union employees in their capacities as employees. If this were not the case, Petitioners in their capacities as appointed employees of Respondent Union would have far greater rights and protection under §401 and §609 of the LMRDA that was ever contemplated by Congress in enacting the statute. Thus, it is Respondents' position that the Courts below correctly followed the more well reasoned and realistic authorities cited above. Therefore, even assuming for purposes of argument only that there is a split in the Circuits on the question of whether the Union's discharge of an *appointed* employee for supporting an opposition candidate violates the LMRDA, the Petitioners' argument that the LMRDA extends job pro-

---

Footnote continued—

regulations as may be permitted by the proviso to §101(a)(2)—the removal of an appointed union executive who publicly disagrees with the leadership of the union on questions of policy is prohibited. Patronage is by no means an essential attribute of democracy, . . . but it is difficult to believe that Congress intended to address the patronage issue when it enacted the Landrum-Griffin Act in 1959. Had it done so, I am inclined to believe that appointed policy-making officials would have been subject to removal by their sponsors . . . [T]he important fact that defendant's actions were directed against an elected rather than an appointed officer may bring this controversy within the Second Circuit's rationale in *Schonfeld v. Penza*, 477 F.2d 899, 83 LRRM 2020 (1973). *See Driscoll v. International Union of Operating Engineers, Local 139, et al.*, ... F.2d ....., 84 LRRM 2255 (7th Cir., September 11, 1973, No. 72-1423)."

tection to Petitioners is without merit. Thus, the Petition for Writ of Certiorari must be denied.

C. The Petitioners' Argument Is Without Merit Whether or Not the Decision Below Was Correct

Even assuming arguendo that there is a split in the Circuits on the question of whether the removal of an *appointed* employee for supporting an opposition candidate violates the LMRDA, this Court need not reach this question in disposing of the instant case. The previous section of this brief (*See*, subsection A above) demonstrates that the Courts below specifically found that Petitioners' rights under §401 of the LMRDA were not interfered with and/or that Petitioners were not disciplined for exercising a right guaranteed by §401 of the LMRDA, wherein it was stated:

(1) Termination as a business agent did not mean that the plaintiffs were otherwise ineligible to continue union membership. (Petition for Writ of Certiorari at A7).

(2) By terminating the plaintiffs here, they have not lost any of their rights as union members. They remain free to work in the industry and to seek union office. (Petition for Writ of Certiorari at A8); and,

(3) The evidence does not indicate that the firings were an attempt to stifle dissent in the union. (Petition for Writ of Certiorari at A8).

Thus, even assuming for purpose of argument only that Petitioners have a cause of action under the LMRDA, the Court specifically found no violation of the Act. Therefore, there are no "special and important reasons" for the granting of review on certiorari.

CONCLUSION

For all the reasons set forth above, the Petition for Writ of Certiorari must be denied.

Respectfully submitted,

JACK GALLON
JEFFREY JULIUS
Counsel of Record
GALLON, KALNIZ & IORIO CO., L.P.A.
3161 N. Republic Boulevard
Toledo, Ohio 43615
(419) 535-1976
Counsel for Respondents

APPENDIX

29 U.S.C. Sec. 401

(a) The Congress finds that, in the public interest, it continues to be the responsibility of the Federal Government to protect employees' rights to organize, choose their own representatives, bargain collectively, and otherwise engage in concerted activities for their mutual aid or protection; that the relations between employers and labor organizations and the millions of workers they represent have a substantial impact on the commerce of the Nation; and that in order to accomplish the objective of a free flow of commerce it is essential that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations, particularly as they affect labor-management relations.

(b) The Congress further finds, from recent investigations in the labor and management fields, that there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.

(c) The Congress, therefore, further finds and declares that the enactment of this chapter is necessary to eliminate or prevent improper practices on the part of labor organizations, employers, labor relations consultants, and their officers and representatives which distort and

defeat the policies of the Labor Management Relations Act, 1947, as amended,[1] and the Railway Labor Act, as amended,[2] and have the tendency or necessary effect of burdening or obstructing commerce by (1) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (2) occurring in the current of commerce; (3) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods into or from the channels of commerce, or the prices of such materials or goods in commerce; or (4) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods into or from the channels of commerce.

29 U.S.C. Sec. 411

(a) (1) EQUAL RIGHTS—Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings, and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) FREEDOM OF SPEECH AND ASSEMBLY—Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: PROVIDED, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules

as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

29 U.S.C. Sec. 481

(e) In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 of this title and to reasonable qualifications uniformly imposed) and shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof.

29 U.S.C. Sec. 529

It shall be unlawful for any labor organization, or any officer, agent, shop steward, or other representative of a labor organization, or any employee thereof to fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of this chapter. The provisions of section 412 of this title shall be applicable in the enforcement of this section.